

TEXAS RACING COMMISSION

MEETING

10:31 a.m.  
Tuesday,  
July 27, 2021

VIA TELEPHONE AND WEB LINK

COMMISSIONERS:

ROBERT C. PATE, Chair  
CLINT BURGESS (designee from the Texas  
Department of Agriculture)  
CONNIE McNABB, D.V.M.  
STEVEN P. MACH  
MARGARET MARTIN (absent)  
MICHAEL "MIKE" MOORE  
ARVEL "A.J." WAIGHT, JR.

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P R O C E E D I N G S

CHAIRMAN PATE: Good morning, ladies and gentlemen. My name is Robert Pate. I am the chair of the Texas Racing Commission, and I'd like to call this meeting to order. The time on my watch is 10:31.

Before we begin, I want to remind everyone that it will be extremely important to keep your device on mute until you are called upon and put your device back on mute afterwards. If you have not previously submitted your intention to comment on any particular agenda item, you will be given the opportunity to at the appropriate time.

You can send an email to [info@TxRC.Texas.gov](mailto:info@TxRC.Texas.gov) at any time to request to comment. Please be specific about which agenda item you would like to comment upon.

Robert, could you please call the roll?

MR. ELROD: Yes, sir.

Chairman Pate?

CHAIRMAN PATE: Here.

MR. ELROD: Commissioner Martin?

(No response.)

MR. ELROD: Commissioner McNabb?

COMMISSIONER McNABB: Here.

MR. ELROD: Commissioner Moore?

COMMISSIONER MOORE: Here.

MR. ELROD: Commissioner Waight?

1 (No response.)

2 MR. ELROD: Commissioner Kleinschmidt?

3 MS. BIJANSKY: We have a different designee for  
4 the Agriculture Department today.

5 COMMISSIONER BURGESS: This is Clint Burgess.

6 MR. ELROD: Clint Burgess. Okay.

7 Commissioner Mach?

8 (No response.)

9 MR. ELROD: We only have four.

10 CHAIRMAN PATE: Did you get Commissioner  
11 Waight's announcement?

12 MR. ELROD: No, sir.

13 CHAIRMAN PATE: He was on. You might call it  
14 again.

15 MR. ELROD: Commissioner Waight?

16 MS. BIJANSKY: I believe he's on mute.

17 Commissioner Waight, can you unmute yourself?

18 MR. ELROD: Commissioner Waight?

19 (No response.)

20 MR. ELROD: Commissioner Mach?

21 COMMISSIONER MACH: Yes, I'm here. I'm sorry,  
22 I dialed in to the wrong link.

23 MR. ELROD: That gives us five.

24 CHAIRMAN PATE: So that is a quorum, Robert?

25 MR. ELROD: Yes, sir.

1 CHAIRMAN PATE: All right. Thank you.

2 Going on to agenda item II. Public comment.

3 Robert, has anybody signed up for public comment?

4 MR. ELROD: No, sir, they have not.

5 CHAIRMAN PATE: All right. Item III of the  
6 agenda. Commissioners, I am sorry that our former  
7 Chairman John Steen and Vice Chairman Ron Ederer are not  
8 able to be with us today, but I want to formally recognize  
9 both of them and thank them for their service to the  
10 Commission and to the State of Texas.

11 Vice Chair Ederer served for 14 years, 10 as  
12 vice chairman. He also served as chair of various  
13 committees, the most recent being chairman of the Rules  
14 Committee. His input over the years has been invaluable.

15 Chairman Steen served for over 10 years, four  
16 as chairman. His business expertise was also invaluable  
17 as the Commission dealt with various complicated financial  
18 issues during his years of leadership.

19 We will have a plaque to commemorate their  
20 service and issue an invitation to join us at a future  
21 meeting to receive our in-person appreciation of their  
22 service.

23 Moving on to agenda item IV, the executive  
24 director's report, Chuck Trout will present.

25 MR. TROUT: Good morning, Mr. Chairman and

1 commissioners. For the record, I'm Chuck Trout, executive  
2 director of the Texas Racing Commission. I have been  
3 asked by Chairman Pate to report on a few issues of  
4 importance to the Commission.

5 First, I would like to give a brief wrap-up of  
6 the Sunset process. We went into the process with high  
7 hopes for a solution to the funding problems that have  
8 plagued the agency for many years. However, the bill  
9 which would have attached the agency to a larger agency  
10 did not pass, leaving the agency with none of the  
11 requested actions or funding solutions having been  
12 approved. It is still possible for the agency to pair up  
13 with another agency for some overhead functions.

14 VOICE: You're not being heard.

15 MR. TROUT: Commissioner Pate, can you hear me?

16 CHAIRMAN PATE: Yes, sir.

17 MR. TROUT: Okay. Sorry. IT Department  
18 thought I wasn't broadcasting.

19 It is possible for the agency to pair up with  
20 another agency for some overhead functions, but our  
21 efforts at this have not been very successful to date.

22 Additionally, there were four minor write-ups  
23 in the licensing and regulation area that the agency  
24 addressed before the Sunset report went to the  
25 legislature. The agency is not scheduled to go through

1     Sunset again until 2017 [sic]. This does not mean,  
2     however, that the agency can't have changes made to the  
3     act by the legislature in the intervening sessions. So it  
4     is possible that [audio interference] would have to wait  
5     until 2017 [sic].

6             The second issue that I'd like to cover is the  
7     agency's move to a building still under construction in  
8     the Capitol Complex. This move is scheduled to take place  
9     next spring. The legislature gave the agency sufficient  
10    appropriations for the move and furniture that may be  
11    required. As a result of this move, the agency will  
12    realize approximately \$140,000 a year in savings from not  
13    having to pay for rent and utilities.

14            Moving to my third topic, as you know from the  
15    articles Robert has been sending you, the Federal  
16    Government passed the Horse Racing Integrity and Safety  
17    Act which recognizes the Horse Racing Integrity and Safety  
18    Authority for purposes of developing and implementing a  
19    horse racing anti-doping and medication control program  
20    and a racetrack safety program. The authority has been  
21    formed and they have begun the task of rulemaking. We  
22    expect to see draft rules this fall with a final product  
23    next spring or summer.

24            Since the Act left the testing processes to the  
25    authority's rulemaking, we have no idea who will conduct



1 the drug testing, how it will be paid for or how much it  
2 will cost. In calendar year 2020, the total laboratory  
3 cost of drug testing in Texas was over \$700,000, which was  
4 paid for by the tracks.

5 Some of the possible positives of this program  
6 are a more robust testing program that may include  
7 out-of-competition testing, hair testing, and testing of  
8 horses at a younger age even before they are eligible to  
9 race, also, coordination of research efforts across all  
10 racing laboratories and an improved split testing  
11 program. The one downside I foresee is the possibility of  
12 higher testing costs overall. Hopefully staff will have  
13 more information for you on this topic in the near future.

14 One of the cost-saving initiatives staff has  
15 been working on is the migration of our database to the  
16 cloud. This move will save the agency money, provide  
17 increased physical security for servers, and greatly  
18 improve the agency's continuity of operations capabilities  
19 in the event of a natural disaster or other event that  
20 could disable the headquarters building.

21 The need to do this was highlighted again a few  
22 weeks ago when thieves stole the copper wiring connecting  
23 the agency's headquarters to transformers. As a result,  
24 the agency staff lost the use of the database for slightly  
25 more than 48 hours as Austin Energy worked around the

1 clock to restore service.

2 We have migrated the development and test  
3 databases to the cloud and expect to migrate the  
4 production database by the end of next month. Once this  
5 project is completed, communications between the staff and  
6 the servers will not have to go through the headquarters  
7 facilities.

8 At this time I would like to recognize Lone  
9 Star Park's management team for installing cameras in the  
10 barn area. This system will provide much needed  
11 surveillance to detect rule violations. During the just  
12 complete Thoroughbred meet, two trainers were observed  
13 administering substances to horses shortly before they  
14 were scheduled to race. Hopefully systems such as this  
15 will become the norm for Texas tracks.

16 I'll have more regulatory or operational  
17 concerns, and I think this is one of the topics that will  
18 be covered in future reports.

19 And finally, the last item on my report is that  
20 I'm announcing my retirement from the Commission. I have  
21 enjoyed my 27 years with the Commission and I wish each of  
22 you success as you oversee the regulation of pari-mutuel  
23 racing. I understand this is short notice but you have  
24 the option of appointing a current staff member as an  
25 interim executive director while you conduct the search

1 for a permanent ED. In fact, the appointment of an  
2 interim would give you an additional three months to  
3 conduct the search because such interims may serve for up  
4 to six months.

5 If there are no questions, that concludes my  
6 report, Mr. Chairman.

7 CHAIRMAN PATE: Thank you, Chuck. I really  
8 appreciate it.

9 Commissioners, do y'all have any questions of  
10 Chuck?

11 (No response.)

12 CHAIRMAN PATE: Hearing none, we'll move on to  
13 Budget and Finance, the next item is IV.2. Gerald Dube,  
14 the chief financial officer, will give us the budget and  
15 finance update.

16 MR. DUBE: Good morning, Chairman Pate and  
17 commissioners. My name is Gerald Dube, for the record,  
18 and I'll be presenting the Texas Racing Commission finance  
19 report.

20 On pages 6 through 10 of your agenda packet are  
21 the agency's fiscal year 2021 operating budget documents  
22 with revenue collection and expenditures reported through  
23 the end of June.

24 The agency collected approximately --

25 CHAIRMAN PATE: Gerry, you're breaking up.

1 MR. DUBE: Am I back?

2 CHAIRMAN PATE: Yes.

3 MR. DUBE: Okay, let me restart. On pages 6  
4 through 10 of your agenda packet are the agency's fiscal  
5 year 2021 operating budget documents with revenue  
6 collection and expenditures reported through the end of  
7 June.

8 With 83.3 percent of the year completed, the  
9 agency collected approximately \$4.54 million, or 85.45  
10 percent of projected annual operating revenue, and  
11 expended \$3.92 million, or approximately 59.3 percent  
12 budgeted of the agency operating expenditures. An  
13 additional \$810,272 is expended out of unappropriated  
14 funds on the agency's share of employee benefits and  
15 retiree health care costs.

16 Simulcast supplemental fee revenue from the  
17 racetracks from September through March totaled \$1.9  
18 million. In addition, the Commission collected  
19 supplemental fees for the first and second quarters of  
20 fiscal year '21 totaling \$339,031.

21 Please let me know if you have any questions  
22 related to these figures. That is all for my presentation  
23 at this time.

24 CHAIRMAN PATE: Commissioners, do any of you  
25 have any questions?

1 (No response.)

2 CHAIRMAN PATE: Thank you, Gerry.

3 MR. DUBE: Thank you.

4 CHAIRMAN PATE: The next item is item number  
5 IV.A.3. a report on the Horse Industry Escrow Account.  
6 Curley Trahan, the director of Pari-Mutuels will present  
7 this report and the next item, item IV.A.4. Wagering  
8 statistics.

9 Curley.

10 MR. TRAHAN: Thank you, Mr. Chairman.

11 Good morning, commissioners. For the record, I  
12 am Curley Trahan, the director of Pari-Mutuels for the  
13 agency. I have two reports I will be presenting today.

14 The first report is a brief status report on  
15 the Horse Industry Escrow Account, a summary of which is  
16 provided on page 11 of your meeting materials. This  
17 report reflects only the 30 percent portion of the HIEA  
18 designated for events furthering the horse industry, as  
19 the 70 percent portion designated for purses is paid out  
20 to the racetracks each month.

21 We began fiscal year 2021 with a carryover of  
22 just over \$1.25 million in the account. Thus far, the  
23 account has received ten monthly deposits from the  
24 Comptroller for fiscal year 2021 September through June  
25 agriculture tax, 70 percent of which is allocated to

1 purses. The remaining 30 percent, along with the 30  
2 percent portion of the escrow funds earned from the one  
3 operating greyhound track total just over \$6.609 million.

4  
5 The account has disbursed approximately \$6.217  
6 million for events thus far for fiscal year 2021, leaving  
7 the current account balance at \$1,644,822.56. There  
8 remains just over \$1.821 million in approved events that  
9 have not yet had funds disbursed.

10 You will notice the deposit for June funds was  
11 somewhat larger than the other monthly deposits to date.  
12 It appears that the Comptroller is advancing the August ag  
13 tax payment with half being deposited with the June  
14 deposit and half anticipated to be deposited with the July  
15 payment. We assume this is being done to get the August  
16 payment in before the end of the state's biennium.  
17 Therefore, we are expecting just one more deposit from the  
18 Comptroller for fiscal year 2021.

19 I'd be happy to answer any questions regarding  
20 the HIEA account before I proceed to my next report.

21 CHAIRMAN PATE: Commissioners, any questions?

22 COMMISSIONER WAIGHT: Chairman Pate, this is  
23 A.J. Waight. I just want to acknowledge I am on now.

24 CHAIRMAN PATE: Thank you, Commissioner Waight.  
25 I saw you there. Thank you.

1 MR. TRAHAN: My second report covers wagering  
2 statistics. In your meeting materials on pages 12 through  
3 14 is the comparison report on wagering statistics for the  
4 period of January through May 2021 versus the same period  
5 in 2020.

6 The report shows a total wagering activities at  
7 the greyhound racetracks decreased by 51.22 percent,  
8 equating to reduced handle of approximately \$4.75 million.

9 Total wagering activities at the horse racetracks showed  
10 an increase of 112.13 percent for the period as compared  
11 to 2020. This increase represents approximately \$125.93  
12 million in added handle.

13 Overall, the report shows that total wagers  
14 placed in Texas increased by approximately \$48.95 million,  
15 representing an 87.10 percent increase from the previous  
16 year, while total wagers placed on Texas races showed an  
17 increase of just over \$79.96 million, or 115.76 percent.  
18 Keep in mind that these numbers are skewed due to the  
19 racetrack closings and occupancy levels caused by  
20 restrictions put in place last year by local jurisdictions  
21 in an effort to slow the COVID-19 pandemic and a  
22 subsequent shift in 2020 race days by the Texas  
23 racetracks.

24 This concludes my report and I'd be happy to  
25 answer any questions.

1 CHAIRMAN PATE: Commissioners, do you have any  
2 questions?

3 (No response.)

4 CHAIRMAN PATE: All right. Our next item is  
5 IV.A.5. Enforcement. Jim Blodgett will give us that  
6 report, please.

7 MR. ELROD: I think we may have lost Jim.

8 MR. BLODGETT: I'm here, Robert.

9 MR. ELROD: Okay. I'm sorry.

10 MR. BLODGETT: It just took a minute there with  
11 the connection.

12 Mr. Chairman, commissioners, good morning. My  
13 name is Jim Blodgett. I serve as the agency's director of  
14 Law Enforcement and Investigations. Your enforcement  
15 report this morning can be found on pages 15 and 16 of  
16 your materials packet.

17 Commissioners, the enforcement report  
18 identifies the racetracks live and past meets as well as  
19 current simulcast operations for your review. Also  
20 included within your report are the investigations by  
21 category --

22 MR. ELROD: Jim, we can't hear you.

23 CHAIRMAN PATE: Mr. Blodgett, I think we lost  
24 you.

25 Well, let's return to this agenda item once he



1 gets back on. I'm just going to go ahead and move on to  
2 the next item, if that's okay.

3 The next item is item IV.B. Election of vice  
4 chair.

5 Devon, will you please explain the process?

6 MS. BIJANSKY: Yes, Mr. Chairman.

7 Good morning, commissioners.

8 With Commissioner Ederer's term on the  
9 Commission having ended in May, the position of vice chair  
10 is now open. Because the Racing Act provides for vice  
11 chair elections at the first meeting of each even-numbered  
12 year, the person you elect today will serve until then.  
13 Any of you can make a nomination and then it's a simple  
14 majority vote.

15 CHAIRMAN PATE: The chair would now entertain  
16 nominations of commissioners to serve as vice chair.

17 COMMISSIONER MOORE: Mr. Chairman, I would like  
18 to nominate Commissioner McNabb as vice chair.

19 CHAIRMAN PATE: Commissioner Moore, thank you.

20 Any other further nominations? Any discussion?

21 (No response.)

22 CHAIRMAN PATE: All right. Let's take this to  
23 a vote. All in favor of the election of Commissioner  
24 McNabb please signify by aye.

25 (A chorus of ayes.)

1                   CHAIRMAN PATE: I think I heard everybody say  
2 aye. Are there any opposed?

3                   (No response.)

4                   CHAIRMAN PATE: Congratulations, Vice Chair  
5 McNabb. As somebody told me, they didn't know whether to  
6 offer me condolences or congratulations when I was  
7 appointed chair, so thank you for your willingness to  
8 serve. We have some things to do.

9                   The next item of business is item IV.C.  
10 Discussion and possible action to approve the memorandum  
11 of understanding with the Texas Veterinary Medical  
12 Diagnostic Lab for fiscal year 2022.

13                  Devon, will you please explain the process?

14                  MS. BIJANSKY: Yes, sir.

15                  Beginning on page 19 of your materials is a  
16 draft memorandum of understanding with the Texas  
17 Veterinary Medical Diagnostic Lab regarding the costs of  
18 drug testing. Under the Racing Act, the tracks are  
19 responsible for the costs of drug testing but the  
20 Commission has to approve the charges, so this MOU  
21 memorializes what those costs will be for fiscal year  
22 2022. There were no changes from this year's MOU as  
23 modified by the amendments that you approved last fall.

24                  CHAIRMAN PATE: All right. Thank you.

25                  Robert, has anybody signed up to speak on this

1 matter?

2 MR. ELROD: No, sir.

3 CHAIRMAN PATE: All right. Commissioners, do  
4 you have any questions?

5 (No response.)

6 CHAIRMAN PATE: Hearing none, if there is no  
7 further discussion, I would entertain a motion to approve  
8 the memorandum of understanding with the Texas Veterinary  
9 Medical Diagnostic Lab for fiscal year 2022.

10 COMMISSIONER McNABB: I'd so move.

11 CHAIRMAN PATE: Motion made by Commissioner  
12 McNabb.

13 COMMISSIONER BURGESS: Second.

14 CHAIRMAN PATE: And the second was by? Who  
15 seconded that motion?

16 COMMISSIONER BURGESS: Clint Burgess.

17 CHAIRMAN PATE: Is there any further  
18 discussion?

19 (No response.)

20 CHAIRMAN PATE: All in favor signify by saying  
21 aye.

22 (A chorus of ayes.)

23 CHAIRMAN PATE: Any opposed?

24 (No response.)

25 CHAIRMAN PATE: All right. The motion carries.

1                   Moving on to agenda item V. Proceedings on  
2 rules.

3                   MR. ELROD: Chairman Pate?

4                   CHAIRMAN PATE: Yes.

5                   MR. ELROD: I believe we have Jim on the line  
6 now if you wanted to go back to that issue.

7                   CHAIRMAN PATE: All right. Jim, would you like  
8 to finish your report, please?

9                   MR. BLODGETT: Mr. Chairman, I'm not sure how  
10 far I got along before I lost signal. I can begin again  
11 if you'd like me to.

12                  CHAIRMAN PATE: Yeah, just start over from the  
13 top, that would be fine.

14                  MR. BLODGETT: Okay. Mr. Chairman and  
15 commissioners, your enforcement report this morning is  
16 found on page 15 and 16. The enforcement report  
17 identifies the racetracks' live and past meets as well as  
18 current simulcast operations for your review.

19                  Also included within your report are the  
20 investigations by category for Lone Star Park's  
21 Thoroughbred Meet from April 22, 2021 through July 5,  
22 2021, and the Sam Houston Race Park Quarter Horse Meet  
23 from the same general time frame. Please keep in mind  
24 when reviewing these figures that these do not include any  
25 investigations that have not been heard and finalized

1 through the appeals process.

2 The violation spikes continue within the  
3 enforcement categories of human drug violations and  
4 contraband. Human drug violations are largely for  
5 marijuana, and the contraband continues to be for items  
6 such as needles, syringes and unlabeled medications that  
7 are found within the restricted stable area of the  
8 racetracks.

9 Rule compliance by our active racetracks is  
10 good with only minimal issues identified through our  
11 compliance inspection program. The racetracks continue to  
12 work with the Racing Commission in resolving all issues  
13 that are identified during the race meets.

14 And that would conclude my report, unless we  
15 have questions.

16 CHAIRMAN PATE: Thank you very much.

17 Commissioners, do any of you have questions for  
18 Jim?

19 (No response.)

20 CHAIRMAN PATE: All right. Thank you.

21 MR. BLODGETT: Thank you.

22 CHAIRMAN PATE: We'll proceed now with item V.  
23 Proceedings on rules, and possible action to adopt  
24 amendments to Rule 321.321, as proposed in the June 4,  
25 2021 issue of the *Texas Register*.

1 Devon, would you please present this item?

2 MS. BIJANSKY: Yes, sir.

3 This item begins on page 27 of your materials.

4 These amendments were requested by Lone Star Park to  
5 allow for a unique winning ticket option along with a  
6 unique winning wager option, as well as some additional  
7 flexibility for racetrack associations in how they offer  
8 this wager.

9 These amendments were proposed at your last  
10 meeting and we received no comments in response to the  
11 proposal. And so they're before you for possible adoption  
12 today.

13 CHAIRMAN PATE: Thank you, Devon.

14 Robert, has anybody signed up to speak on this  
15 matter?

16 MR. ELROD: No, sir.

17 COMMISSIONER MACH: Mr. Chairman, I'd move  
18 adoption of 16 TAC Section 321.321, Fortune Pick, as  
19 proposed.

20 CHAIRMAN PATE: All right. Thank you.

21 And second?

22 COMMISSIONER BURGESS: I'll make a second.

23 CHAIRMAN PATE: Thank you. And who was the  
24 second? I'm sorry. Was that Commissioner Mach?

25 COMMISSIONER BURGESS: Clint Burgess.

1 COMMISSIONER MACH: I made the motion.

2 CHAIRMAN PATE: Thank you, Commissioner Mach.

3 Any further discussion?

4 (No response.)

5 CHAIRMAN PATE: Okay. All those in favor  
6 signify by saying aye.

7 (A chorus of ayes.)

8 CHAIRMAN PATE: Any opposed?

9 (No response.)

10 CHAIRMAN PATE: The motion carries.

11 Next item is the discussion and possible action  
12 to proposed amendments to Section 303.102 of the Greyhound  
13 Rules. Devon Bijansky will present this item.

14 MS. BIJANSKY: Yes, sir.

15 The Texas Greyhound Association has requested a  
16 change to the process of getting a greyhound registered as  
17 Texas-bred. I have worked with the TGA on the draft on  
18 page 35 of your materials, which provides that the TGA  
19 rather than the National Greyhound Association will be  
20 responsible for registration of Texas-bred greyhounds.

21 There was no Rules Committee meeting to  
22 consider this proposal, but it doesn't look like there  
23 would be any opposition to it, and so it's before you  
24 today for possible proposal.

25 CHAIRMAN PATE: Thank you, Devon.

1 Robert, is anybody signed up to speak with  
2 respect to this item?

3 MR. ELROD: No, sir.

4 CHAIRMAN PATE: All right.

5 COMMISSIONER MACH: Mr. Chairman, I move that  
6 we post the amendments to 16 TAC Section 303.102  
7 concerning Greyhound Rules.

8 CHAIRMAN PATE: Motion made by Commissioner  
9 Mach. Seconded?

10 COMMISSIONER McNABB: I'll second.

11 CHAIRMAN PATE: Thank you, Vice Chair McNabb.  
12 Any further discussion?

13 (No response.)

14 CHAIRMAN PATE: All those in favor signify by  
15 saying aye.

16 (A chorus of ayes.)

17 CHAIRMAN PATE: Any opposed?

18 (No response.)

19 CHAIRMAN PATE: Motion carries.

20 The next item are items V.B.2-4. These are  
21 discussion and possible action to proposed amendments to  
22 Section 309.297 and new sections 303.313 and .314. These  
23 are items that were discussed, I think, with both the  
24 Rules Committee and then, at least with respect to one  
25 item, with the Horse Industry Escrow Account.



1           Devon, do you want to comment on each of these  
2 rules briefly? And then I'll give a few comments, and I'm  
3 thinking we'll probably have some people who want to talk  
4 about it.

5           MS. BIJANSKY: Yes, sir.

6           Section 309.297, which begins on page 36,  
7 clarifies requirements for the weekly purse reports the  
8 tracks already submit to the Commission and also adds a  
9 requirement for quarterly reports, which can either be a  
10 separate report, or if a track prefers to include a  
11 cumulative component to the weekly report, then the last  
12 weekly report of the quarter would also serve as the  
13 quarterly report.

14          On page 39, Section 303.313 establishes a  
15 process for requesting modifications to approved  
16 allocations from the account. This is modeled after the  
17 process that's already used for approving changes to race  
18 dates. We anticipate that the request to modify  
19 allocation of funds would go along with the request for a  
20 change in race dates when that's appropriate.

21          Also on page 39, Section 303.314 authorizes the  
22 Commission and other agencies to audit the funds from the  
23 account, requires tracks and the Horsemen's Partnership to  
24 retain records relating to distributions of funds from the  
25 account for five years, and to cooperate with any audit of

1 the funds, and establishes audit requirements relating to  
2 the Horse Industry Escrow Account funds in the audit that  
3 they're already required to provide to the Commission  
4 annually.

5 CHAIRMAN PATE: All right. Thank you.

6 Now, it's my understanding -- let's just talk  
7 about each one of these separately. With respect to  
8 309.297, Robert, has anybody signed up to speak with  
9 respect to that matter?

10 MR. ELROD: Not that one, no, sir.

11 CHAIRMAN PATE: All right. Commissioners do  
12 you have any questions with respect to 309.297, the  
13 proposed amendments?

14 (No response.)

15 CHAIRMAN PATE: Hearing none, the chair would  
16 entertain a motion to propose the amendments and approve  
17 the amendments to 309.297.

18 COMMISSIONER MACH: I'll make that motion.

19 CHAIRMAN PATE: Thank you, Commissioner Mach.  
20 And there is a second?

21 COMMISSIONER MOORE: Second, Commissioner  
22 Moore.

23 CHAIRMAN PATE: Is there any further discussion  
24 with respect to that item?

25 (No response.)

1           CHAIRMAN PATE: All right. Call for a vote  
2 then with respect to Section 309.297 proposed amendments.

3 All those in favor signify by saying aye.

4 (A chorus of ayes.)

5 CHAIRMAN PATE: Motion carries.

6 We'll consider next Section 303.313.

7 Robert, has anybody signed up to speak with  
8 respect to that matter?

9 MR. ELROD: I believe John Cardwell wanted to  
10 speak on behalf of Lone Star Park.

11 CHAIRMAN PATE: All right. Mr. Cardwell.

12 MR. ELROD: Well, he said he wanted to.

13 CHAIRMAN PATE: Mr. Cardwell, are you still on?

14 MR. CARDWELL: Yes, sir. Can you hear me?

15 CHAIRMAN PATE: It's very faint, sir.

16 MR. CARDWELL: Yes, sir. I apologize. I just  
17 got myself unmuted. Is that better? Can you hear me  
18 better?

19 CHAIRMAN PATE: Yes, sir. Thank you. And  
20 we're talking about only Section 303.313 amendments at  
21 this time.

22 MR. CARDWELL: Yes, sir, and I apologize, I  
23 guess my notice was vague. I want to speak 303.314.

24 CHAIRMAN PATE: That's what I thought.

25 Is there anybody else that signed up with

1       comments on 303.313, Robert?

2               MR. ELROD:  No, sir.

3               CHAIRMAN PATE:  All right.  The chair would  
4       then entertain a motion to approve the proposed amendments  
5       to Section 303.313 as published.

6               COMMISSIONER MACH:  I make the motion.

7               CHAIRMAN PATE:  Thank you, Commissioner Mach.  
8       Second?

9               COMMISSIONER McNABB:  I'll second.

10              CHAIRMAN PATE:  Thank you, Commissioner McNabb.  
11       Is there any further discussion?

12              (No response.)

13              CHAIRMAN PATE:  Hearing none, I'd call for a  
14       vote.  All those in favor of this proposed amendment  
15       signify by saying aye.

16              (A chorus of ayes.)

17              CHAIRMAN PATE:  Any opposed?

18              (No response.)

19              CHAIRMAN PATE:  All right.  Motion carries.

20              Mr. Cardwell, you're now recognized with  
21       respect to .314.

22              MR. CARDWELL:  Yes, sir.  Thank you, Mr.  
23       Chairman.  Congratulations, by the way.

24              CHAIRMAN PATE:  Thank you.

25              MR. CARDWELL:  The thing that I'd like to speak

1 about is concerning this audit and to hopefully ask for a  
2 cap. It is undisputed, and there's many times to the fact  
3 that the Texas Racing Commission currently has the right  
4 to have any audit performed that it so chooses. Title 16,  
5 Rule 309.164 provides that the Commission can review and  
6 can take audit of all systems maintained under this  
7 section.

8 What our issue is not that there's an audit and  
9 that you maintain the records, but that it is now ordered  
10 that these additional funds that have been made available  
11 through the Horse Industry Escrow Account undergo an  
12 annual audit, which I am told by auditors is a different  
13 sort of audit than what we are currently doing. That  
14 would be a compliance audit, is what I am being told, and  
15 that the expense of this is pretty significant.

16 We discussed this at the Rules Committee -- I'm  
17 not going to bore everybody with all those details. But  
18 the possible solution that Vice Chairman Ederer came up  
19 with was that there would be a note to the financial  
20 statements. We circulated that to all the other tracks  
21 and submitted that to Devon back in early June.

22 And the current issue, let me just say what  
23 that language would have said. It would have been in  
24 section (c) of 303.314, and it just would have said, The  
25 audit shall include a note to the financial statements

1 showing the amount of purse funds received by a racetrack  
2 association from the Horse Industry Escrow Account and  
3 distributed by the association during the time period  
4 covered by the audit.

5 That language is not in what was proposed and  
6 the language that's there now is this sentence that the  
7 annual audit shall demonstrate -- I'm sorry, my phone is  
8 blocked. Let me turn this off. I apologize, I'm on the  
9 office phone.

10 The annual audit shall demonstrate that the  
11 purse funds received from the racetrack association from  
12 the account and distributed by the association during the  
13 time period covered by the audit will be subject to such  
14 audit and are materially accurate and properly accounted  
15 for under generally accepted accounting principles,  
16 consistently applied. And that's what the auditors are  
17 telling me triggers these compliance audits.

18 Now, when we talked about this before, just for  
19 everybody's benefit who wasn't there, this is money that  
20 is actually received by the horsemen. And this money, the  
21 amounts is calculated and dictated by Marsha Rountree's  
22 group. And all the tracks do is they just receive the  
23 money and deposit it in that account and they're not  
24 responsible for the calculation of the distribution of  
25 this money.

1           This has been going on since the '90s and it's  
2           a very specified procedure. All that's happened here is  
3           there's an inflow of a sum of money that's now available.

4           And what we would request is either that we add  
5           some language to that note, or there is another provision  
6           that my partner, Bruce Bennett, came up with which is that  
7           we permit the use of the statistical sample consistent  
8           with public account guidance regarding government auditing  
9           standards. So what this means is they don't have to audit  
10          every single purse calculation, but that they go get a  
11          statistical sample which would satisfy your requirements.

12          And this, they say, would be the difference between like  
13          \$70,000 a year for a full compliance audit versus about  
14          \$7,000, I'm told, for this statistical sample audit.

15          That's all I have to say. I appreciate the  
16          opportunity, and if anybody has any questions, obviously  
17          I'd be pleased to answer.

18          CHAIRMAN PATE: Than you, Mr. Cardwell.

19          And commissioners, I think it might be  
20          appropriate for me to fill y'all in a little bit more on  
21          what's involved here, and it may be that we table this  
22          matter until we can get some more information. But  
23          Commissioner Kleinschmidt and I, as you know, have the  
24          Horse Industry Escrow Account Ad Hoc Committee. And  
25          Commissioner Ederer in the Rules Committee kind of handed

1 this rule over to the Horse Industry Escrow Account Ad Hoc  
2 Committee to consider at that time.

3 And we had an extensive discussion and there  
4 were very strong views expressed by Commissioner  
5 Kleinschmidt concerning the need to make sure that the  
6 State of Texas had a clear accounting for the 70 percent  
7 of the Horse Escrow monies that are going to the tracks.

8 And so what you see before you in terms of a  
9 proposed rule, this was sent out prior to the meeting to  
10 the interested parties for their consideration. And what  
11 I want to tell you is right now, for example, Mr.  
12 Cardwell's client -- I believe it's Global Gaming LSP,  
13 LLC, which is the Sam Houston Raceway [sic] -- they give  
14 us an audited financial statement. And what I noticed  
15 when I was furnished with it, it shows an audited account  
16 and it's an account that shows a \$55 million total assets  
17 of which \$4.18 million of it are restricted cash of the  
18 Horsemen's Association, with an offsetting liability  
19 payable to the Horsemen's Association.

20 And it's coupled with a footnote within the --  
21 this is now the existing reporting of this entity, not  
22 something new -- and then at note 2 there's a specific  
23 discussion of restricted cash indicating the Horsemen's  
24 Association \$4.18 million as of December 31, 2019 in this  
25 case, which was the first quarter of the use of the funds



1 under the legislation passed in the prior session. And it  
2 is accounts held on behalf of the Horsemen's Association  
3 and it's reflected as a current liability.

4 So it occurred to me in just looking at this,  
5 because of the materiality of the number to the balance  
6 sheet of this entity that an audit was already being  
7 conducted with respect to this balance. How else could  
8 they render an opinion with respect to the fairness of the  
9 financial statements if not?

10 So it didn't seem unusual to me to redraft the  
11 provision that Mr. Cardwell made reference to which was  
12 just some kind of footnote to just simply say that -- to  
13 demonstrate the purse funds received by the racetrack  
14 associations and distributed by the association during  
15 that time period had been subject to an audit. Well, they  
16 are subject to an audit and are materially accurate and  
17 accounted for under generally accepted accounting  
18 principles. That's what the opinion says.

19 I mean, that's where I came down on it and  
20 that's why this language was advanced. And of course, we  
21 did not have time after the last meeting and because of  
22 vacation schedules for Commissioner Kleinschmidt and I to  
23 have an additional meeting on this, so that's where we  
24 are.

25 And if we need to, I can certainly understand

1 in order to get finality on this -- and I will also  
2 mention that I am going to be in contact with the  
3 Horsemen's Association to fully understand their  
4 accountings and so forth -- it's certainly acceptable to  
5 the chair for this to be tabled at this meeting to be  
6 brought up at the next meeting, but I'll leave that to the  
7 commissioners if y'all want to go forward or not. It's  
8 fine with me either way.

9 COMMISSIONER MACH: I move to table.

10 CHAIRMAN PATE: All right. Who made that  
11 motion?

12 MR. ELROD: Commissioner Mach.

13 CHAIRMAN PATE: Thank you, Commissioner Mach.  
14 Is there a second?

15 COMMISSIONER McNABB: I'll second that, please.

16 CHAIRMAN PATE: Thank you, Commissioner McNabb.  
17 I appreciate it.

18 Is there any further discussion?

19 (No response.)

20 CHAIRMAN PATE: All right. We'll call for a  
21 vote. All those in favor of tabling the proposed  
22 amendments to Section 303.314 signify by saying aye.

23 (A chorus of ayes.)

24 CHAIRMAN PATE: Any opposed?

25 (No response.)

1                   CHAIRMAN PATE: All right. That motion  
2 carries.

3                   Let me just say first we'll be in further  
4 contact with both the tracks and the Horsemen's  
5 Association as we get a better understanding of this rule.

6                   Yes, ma'am, who was that that wished to speak?

7                   MS. BIJANSKY: It was Devon.

8                   Section 309.297, which you voted to propose a  
9 few minutes ago, has language referencing 303.314, which  
10 you just tabled. So I would propose either revisiting  
11 303.314 or -- I'm sorry -- 309.297 or both .297 and  
12 303.313 and tabling those or modifying this language to  
13 refer to specifically to what that documentation is  
14 instead of referring to a rule that isn't yet being  
15 proposed.

16                  CHAIRMAN PATE: Okay. I'm not sure I  
17 understood my choices there, Devon. Lay it out one more  
18 time.

19                  MS. BIJANSKY: You could hold off on proposing  
20 309.297, you could hold off on proposing both of the rules  
21 related to this issue that you voted to propose, or you  
22 could modify the language in 309.297 that refers to  
23 303.314. And it's a reference to documentation that's  
24 required by 303.314, so we could work in some language  
25 that specifically articulates what that documentation is

1       instead of referring to the other rule.

2               CHAIRMAN PATE:   Okay.   So offhand it seems to  
3   me the thing to do would be to reconsider the vote on  
4   .297, table it and bring them both back when we have the  
5   language confirmed.   Doesn't that make the most sense to  
6   you, Devon?

7               MS. BIJANSKY:   Either way would work and that's  
8   certainly a fine option.

9               CHAIRMAN PATE:   Okay.   Commissioners, do y'all  
10   have a view on this?

11              COMMISSIONER McNABB:   I move that we table so  
12   that we can cross-level on these and not create an  
13   administrative tangle.

14              COMMISSIONER MACH:   I'll second the motion.

15              CHAIRMAN PATE:   Okay.   So I'll consider that as  
16   a motion to reconsider the vote on .297.

17              MS. BIJANSKY:   And not .313?

18              CHAIRMAN PATE:   Well, does .313 have the same  
19   language, Devon?

20              MS. BIJANSKY:   It doesn't refer to another  
21   rule, but I think Commissioner McNabb mentioned keeping  
22   the whole package together.   Did I understand that  
23   correctly?

24              COMMISSIONER McNABB:   Whatever needs to get  
25   cross-leveled we need to table, just so we don't create a

1 tangle.

2 CHAIRMAN PATE: Is it easier to do all three?  
3 I would agree with Commissioner McNabb. Whatever is  
4 easiest to make sure we get consistent language between  
5 the three.

6 If we need to table all three of them, then  
7 that's what we ought to consider doing. If it's just the  
8 two, we could do that. But I'm really asking you, Devon,  
9 which way to go.

10 MS. BIJANSKY: I think tabling both of them --  
11 really all three of them makes the most sense in case  
12 there are any other changes that develop that you want to  
13 make to .313 as well.

14 COMMISSIONER MACH: Move to table all three.

15 CHAIRMAN PATE: All right. That was  
16 Commissioner Mach?

17 Is there a second?

18 COMMISSIONER McNABB: I'll second.

19 CHAIRMAN PATE: Thank you, Commissioner  
20 McNabb. So I'll call that for a vote then. All in favor  
21 of reversing the vote on .297 and .313, consistent with  
22 tabling .314, signify by saying aye.

23 (A chorus of ayes.)

24 CHAIRMAN PATE: Any opposed?

25 (No response.)

1                   CHAIRMAN PATE: All right. That motion  
2 carries.

3                   The next agenda item is item VII.A. Discussion  
4 and possible action to allocate live race dates from the  
5 period January 1, 2022 through August 31, 2023. Chief  
6 Steward Ricky Walker will present the request submitted by  
7 the horse racetracks.

8                   MS. BIJANSKY: I believe you skipped item VI.

9                   CHAIRMAN PATE: I'm sorry.

10                  MR. ELROD: On the screen.

11                  CHAIRMAN PATE: Oh, I'm sorry.

12                  Item VI. Proceedings on the Horse Industry  
13 Escrow Account, discussion and possible action on request  
14 for modification submitted by the Texas Thoroughbred  
15 Association for events funded from the Horse Industry  
16 Escrow Account.

17                  Devon, you'll present this item. I beg your  
18 pardon.

19                  MS. BIJANSKY: Yes, sir.

20                  Commissioners, beginning on page 42 of your  
21 materials is a request from the Thoroughbred Association  
22 for the modification of ten events that have already been  
23 approved and funded from the Horse Industry Escrow  
24 Account. This request is for additional funds for costs  
25 that TTA incurred in connection with the audit of the HIEA

1 funds they were required to have performed which cost a  
2 total of \$3,500. The amounts they're requesting are  
3 within the 5 percent allowable under the rules for  
4 administrative costs.

5 We wanted to bring this request to you sort of  
6 as a continuation of the conversation at the last meeting  
7 about modifications after the fact and the administrative  
8 burden that it could place on Commission staff if we were  
9 to routinely receive requests for modification to cover  
10 other costs attributable to each event. But I want to be  
11 clear there is no reason in the rules that this request  
12 cannot be approved.

13 CHAIRMAN PATE: All right. Robert, is anyone  
14 signed up to speak on this item?

15 MR. ELROD: No, sir.

16 MS. RUYLE: Commissioners, this is Mary Ruyle.  
17 I am available for questions. And the only reason that  
18 this was not requested in advance of the events is we had  
19 no idea what the audit costs were going to be.

20 This was actually the first fiscal year in  
21 which our auditor dealt with the HIEA funds. I think  
22 going forward, we should be able to anticipate what those  
23 audit costs may be, but we're going to have the same issue  
24 with events that were approved and took place beginning  
25 September 1, 2020 because our fiscal year goes from August

1 31 to September 1, and our audit is not completed until  
2 the following May.

3 CHAIRMAN PATE: Commissioners, do you have any  
4 questions?

5 (No response.)

6 CHAIRMAN PATE: If there's no further  
7 discussion, I'd entertain a motion regarding the request  
8 for modification submitted by the Texas Thoroughbred  
9 Association.

10 COMMISSIONER MACH: I'm wondering, should we  
11 just refer it back to the director for his action, because  
12 they are seeking our guidance, not seeking our approval.  
13 And I wouldn't want to go on a slippery slope with having  
14 to bring all of these to the Commission if the director  
15 can make the decision ultimately.

16 MS. BIJANSKY: Well, your recommendation --

17 CHAIRMAN PATE: I guess that's true --

18 MS. BIJANSKY: Sorry.

19 CHAIRMAN PATE: So long as the amount doesn't  
20 exceed the \$50,000 limit. Correct.

21 MS. BIJANSKY: Right. We are looking for  
22 guidance on this issue, but the agenda item is worded in  
23 terms of action on this request, so a vote on a policy  
24 decision on its own I don't think is consistent with the  
25 agenda item.



1                   COMMISSIONER McNABB: Devon, are you saying  
2                   that this is inside the envelope for us to refer to the  
3                   executive director?

4                   MS. BIJANSKY: There isn't really a means of  
5                   referring down, it's really referring up. This was  
6                   actually originally submitted to Mr. Trout, and we decided  
7                   that given the policy issue at the root of it, we would  
8                   prefer to send it to you to get your guidance on it.

9                   So needless to say, there's that policy issue  
10                  embedded within whatever decision you make today. And  
11                  we'll of course take that forward and not bring you each  
12                  request that's similar to this, but we did want to bring  
13                  it because it is sort of the first of its kind and similar  
14                  to something that was discussed at the last meeting.

15                 So we're certainly not going to bring you each  
16                 time something like this comes up. We are going to take  
17                 direction from your decision going forward.

18                 COMMISSIONER McNABB: So the policy you're  
19                 driving at is approving that this is a legitimate expense  
20                 to come out of these funds? Is that the question that  
21                 you're asking?

22                 MS. BIJANSKY: It's more about the idea of  
23                 modifications in this kind of situation. We've actually  
24                 already had requests involving audit funds. I believe the  
25                 Arabians had included a portion of administrative expenses

1     toward audits in some of their requests, and those have  
2     been approved without any problem.

3             So it's not that itself; it's the idea of  
4     potentially a second round of every proposal coming back  
5     to the Commission -- or to the agency, not only for a  
6     decision by the executive director but then the paperwork,  
7     the handling and the processing of the payment and all of  
8     that that creates additional work and we really wanted  
9     your opinion on.

10            MS. RUYLE: This is Mary Ruyle again.

11            My question is -- and I'm looking for guidance  
12     from the Commission as well -- would you prefer to have  
13     exact numbers after the fact of the event, even if it's a  
14     fairly significant time period, or would you rather have  
15     me do estimates that we know are not going to be correct?

16            CHAIRMAN PATE: Isn't there a reporting  
17     requirement under the grant agreements on the expenditure  
18     of funds, Devon?

19            MS. BIJANSKY: There is, yes.

20            CHAIRMAN PATE: Yeah. So I think there is  
21     actually a true-up that you're under the burden of  
22     already, Mary.

23            MS. RUYLE: So you're saying it's sufficient in  
24     your mind for me to do estimated audit expenses?

25            CHAIRMAN PATE: Well, I mean, a lot of the

1 numbers that we see in these various applications are all  
2 estimated, but I think what you're required to do under  
3 the grant documents with respect to each one of these  
4 grants, individual grants, is to report back to the agency  
5 how the money was actually spent. And you know, if  
6 there's leftover money there's a way to handle that, and  
7 so forth. But I think that's in the document already.

8 MS. RUYLE: Okay. I'm still not understanding.  
9 Because I can certainly -- on our events I can get very,  
10 very close on what we're going to spend on those. And  
11 granted, there are situations, for instance on a sale we'd  
12 have less horses go through the ring than anticipated.

13 But particularly until this first audit and my  
14 conversations with our auditor, I had no idea how much  
15 time he was going to spend actually auditing each of these  
16 ten events. Some of them were obviously very low cost  
17 because it was basically us writing a few checks to the  
18 event. The other, for instance the breeder bonus for  
19 Texas racing and those issues, that's a lot of checks to a  
20 lot of different people that the auditor has to go  
21 through.

22 So my question is, what is your preference?  
23 Would you prefer for me to estimate what that auditor is  
24 going to use for any particular event, and I'm obviously  
25 going to estimate high, or do this, as we have done, after

1 the fact?

2 And forgive me, Devon, but I don't see how this  
3 is additional work for whoever is handling this program  
4 because the event has already been approved. This is one  
5 dollar amount that is different to that event.

6 And granted, I don't understand the whole  
7 process that you have to go through, but can you explain  
8 to me how that is particularly burdensome?

9 MS. BIJANSKY: Well, you know, if we're not  
10 issuing a payment right now but you're waiting on these  
11 funds, that would be one payment. But really it's ten  
12 different modifications, and so there's some paperwork  
13 involved in revising the total amount for each of those  
14 ten events, writing that up, and then submitting the  
15 payment, you know, possibly at the same time that we're  
16 already making a regular payment but possibly at a  
17 different time.

18 So it does add up, and when we have zero staff  
19 allocated or appropriated for the Horse Industry Escrow  
20 Account, it is a burden. And again, it's one we're happy  
21 to take on, but we wanted direction from the Commission on  
22 that.

23 MS. RUYLE: Right. And that's why I need your  
24 direction as well, commissioners. You know, I'm happy to  
25 do either way. I will tell you that we'll be requesting

1 more audit funds for events that have been completed since  
2 September 1 of last year, because I had not previously  
3 requested admin funds to cover the auditing of those  
4 events.

5 CHAIRMAN PATE: All right.

6 MS. RUYLE: But I can certainly estimate it.

7 CHAIRMAN PATE: I mean, I'm not speaking for  
8 the Commission when I say this, but I think the sense of  
9 it that I'm getting is I don't think there's an objection  
10 to you coming back and trying to recoup actual dollars  
11 that are spent related to these items.

12 MS. RUYLE: Okay.

13 CHAIRMAN PATE: I don't hear that, but  
14 procedurally the issue would be whether or not it's within  
15 Chuck -- the executive director's discretionary amount  
16 with respect to each one of those items whether he can  
17 approve it. But the only issue before us today is the  
18 motion regarding this specific request.

19 MS. RUYLE: Okay.

20 CHAIRMAN PATE: I guess I'd ask the  
21 commissioners, would there be a motion made by a  
22 commissioner to either approve or disapprove this payment  
23 as submitted by the Texas Thoroughbred Association.

24 COMMISSIONER McNABB: Chairman, I'd make such a  
25 motion, and also with the comment that ultimately we're

1 going to see all the actual numbers, so I think that we  
2 will meet the bar for our due diligence as our whole year  
3 goes, but they need to have a way to approve expenses  
4 within the year.

5 Ultimately our due diligence is going to be met  
6 by the end of the year when we see all the final numbers,  
7 so I'd offer that they are certainly encouraged to give  
8 reasonable estimates and do expenditures as they need to  
9 assure the State that the funds are being used as  
10 intended.

11 CHAIRMAN PATE: And then there will be a  
12 true-up in the final report, I agree.

13 Is there a second to that motion?

14 COMMISSIONER WAIGHT: Second.

15 CHAIRMAN PATE: Thank you.

16 All those in favor signify by saying aye.

17 (A chorus of ayes.)

18 CHAIRMAN PATE: Any opposed?

19 (No response.)

20 CHAIRMAN PATE: Hearing none, the motion  
21 carries.

22 All right. Now we're on the racetracks. Next  
23 is agenda item VII.A. Discussion and possible action to  
24 allocate live race dates for the period from January 1,  
25 2022 through August 31, 2023. Chief Steward Ricky Walker

1 will present the request submitted by the horse  
2 racetracks.

3 Ricky.

4 MR. ELROD: Ricky, you may be on mute.

5 CHAIRMAN PATE: No sound.

6 MR. ELROD: Ricky, if you can hear us, we need  
7 you to unmute.

8 CHAIRMAN PATE: All right. Let's go on to the  
9 next matter of business while he's getting technical  
10 issues resolved.

11 The next item would be item VII.B. Discussion  
12 and possible action to approve the acquisition of the  
13 pecuniary interest in PM Texas LLC and to approve changes  
14 in management committee.

15 Devon, will you please present this item?

16 MS. BIJANSKY: Yes, sir.

17 Commissioners, Houston Gaming Ventures, Inc. Is  
18 a subsidiary of Penn National Gaming and it owns 50  
19 percent of PM Texas LLC, which holds the racetrack  
20 licenses of Sam Houston Race Park, Valley Race Park, and  
21 the Hill Lane license that used to be operated as Manor  
22 Downs. Houston Gaming Ventures has proposed to acquire  
23 the other 50 percent of PM Texas which is currently owned  
24 by PM Texas Holdings, LLC, a subsidiary of MAXXAM Inc.  
25 There is a diagram on page 154 of your materials that

1 shows the current structure of those entities.

2 As part of the proposed transaction, PM Texas  
3 Holdings is also proposing to make certain organizational  
4 changes -- as outlined on page 127 of your materials --  
5 essentially concurrently with the transfer of the 50  
6 percent interest in PM Texas. Houston Gaming Ventures is  
7 also requesting approval of changes to the management  
8 committee, as outlined at the bottom of that same page.  
9 All proposed new members are already licensed by the  
10 Commission.

11 Staff has reviewed the application as  
12 summarized in the report beginning on page 125 and has  
13 identified no issues that would preclude approval.

14 I believe someone may be here on behalf of  
15 Houston Gaming Ventures should you have any questions.  
16 Otherwise, the request for approval of acquisition of  
17 pecuniary interest and changes to PM Texas's management  
18 committee are before you.

19 CHAIRMAN PATE: Thank you.

20 Is there anyone, Robert, to speak with respect  
21 to this item?

22 MR. ELROD: No, sir.

23 CHAIRMAN PATE: All right. Commissioners, do  
24 any of you have any questions?

25 COMMISSIONER MACH: I make a motion to approve



1 the acquisition.

2 CHAIRMAN PATE: Thank you, Commissioner Mach.

3 Is there a second?

4 COMMISSIONER WAIGHT: I make a second.

5 CHAIRMAN PATE: Thank you, Commissioner Waight.

6 Is there any further discussion?

7 (No response.)

8 CHAIRMAN PATE: All those in favor of the  
9 acquisition of the pecuniary interest in PM Texas LLC and  
10 to approve changes in its management committee signify by  
11 saying aye.

12 (A chorus of ayes.)

13 CHAIRMAN PATE: Are there any opposed?

14 (No response.)

15 CHAIRMAN PATE: All right. That motion  
16 carries.

17 Have we found Ricky yet?

18 MR. ELROD: I think Ricky is with us.

19 MR. WALKER: Can y'all hear me now,  
20 commissioners?

21 CHAIRMAN PATE: Yes, sir.

22 MR. WALKER: I guess my phone went dormant  
23 there. I had to call back in.

24 Okay. Are y'all ready?

25 CHAIRMAN PATE: Yes, sir, go ahead.

1 MR. WALKER: Good morning, Chairman and  
2 commissioners. My name is Ricky Walker, chief steward for  
3 the Texas Racing Commission.

4 On pages 46 and 47 are the race date calendars  
5 for 2022 and 2023 that show the horse racetracks'  
6 requested race dates.

7 On pages 48 through 69, Sam Houston Race Park  
8 has requested to run a 50-day Thoroughbred meet from  
9 January 6, 2022 through April 9, 2022, and a 25-day  
10 Quarter Horse meet to run from April 22, 2022 through June  
11 12, 2022. There are no 2023 requested dates. There are  
12 letters of support from the Texas Horsemen's Partnership,  
13 Texas Thoroughbred Association, Texas Quarter Horse  
14 Association, the Texas Paint Horse Association, and the  
15 Texas Arabian Breeders Association.

16 On pages 70 through 90, Lone Star Park has  
17 requested to run a 48-day Thoroughbred meet from April 28,  
18 2022 through July 24, 2022, and a 31-day Quarter Horse  
19 meet from September 16, 2022 through December 17, 2022.  
20 Lone Star Park has also requested to run a Thoroughbred  
21 meet from April 27, 2023 through July 23, 2023.

22 There are letters of support from the Texas  
23 Horsemen's Partnership, Texas Quarter Horse Association,  
24 the Texas Paint Horse Association, the Texas Arabian  
25 Breeders Association, and the Texas Thoroughbred

1 Association. The Texas Thoroughbred Association did not  
2 approve the 2023 request, stating: "We believe it's  
3 premature to support 2023 date requests without the  
4 opportunity to assess 2022 business levels."

5 On pages 91 through 100, Retama Park requested  
6 to run a 22-day Quarter Horse meet from June 30, 2022  
7 through August 20, 2022. There are letters of support  
8 from the Texas Horsemen's Partnership, Texas Paint Horse  
9 Association, and the Texas Arabian Breeders Association.  
10 There are no 2023 dates requested.

11 The TTA states they cannot approve the request  
12 at this time. Rob Werstler, their director of racing,  
13 stated in part a concern that Retama will not have made  
14 all the repairs caused by this year's winter ice storm.  
15 Additionally, TQHA also had concerns about Arabian racing,  
16 stating there will be limited stalls and limited racing  
17 opportunities.

18 On pages 101 through 115, Gillespie County Fair  
19 has requested to run eight days July 2, 3, 16 and 17,  
20 August 13, 14, 27 and 28 in 2022. Gillespie County Fair  
21 has also requested to run eight days July 1, 2, 15, 16,  
22 August 12, 13, 26 and 27 in 2023. There is letters of  
23 support from the Texas Horsemen's Partnership, Texas  
24 Arabian Breeders Association, Texas Paint Horse  
25 Association, and the Texas Thoroughbred Association. As

1 of this date, TQHA has not given their support.

2 Are there any questions? Thank you.

3 CHAIRMAN PATE: All right. Commissioners, do  
4 any of you have questions for Ricky?

5 (No response.)

6 CHAIRMAN PATE: Robert, has anybody signed up  
7 to speak with respect to this matter?

8 MR. ELROD: No one is signed up. Steve Ross is  
9 available from Retama if you had any questions for him.

10 CHAIRMAN PATE: All right.

11 COMMISSIONER McNABB: I have some questions.  
12 TQHA mentioned some issues that have to do with the  
13 availability of stalls and some of the barns had to be  
14 condemned. Are we going to have a safe situation when we  
15 do open up at Retama?

16 MR. ROSS: Absolutely. This is Steve Ross.

17 Just for the record, no barns have been  
18 condemned, that is just false. The issue on the backside  
19 of Retama is the repair of the jocks' quarters, the dorms  
20 and the racing office which were damaged in the winter  
21 storm of February, and plans are underway to get that  
22 done. And I fully expect there to be -- I have no reason  
23 to believe there will not be a live race meet in 2022 and  
24 we will not be 100 percent ready for that.

25 COMMISSIONER McNABB: Okay. Just concerned

1 about the horse safety, so thank you very much.

2 Appreciate your comments.

3 MR. ROSS: You're welcome.

4 CHAIRMAN PATE: Any further questions,  
5 commissioners?

6 (No response.)

7 CHAIRMAN PATE: Is there a motion to approve  
8 the dates as requested by Sam Houston Race Park, Lone Star  
9 Park, Retama Park, and Gillespie County?

10 COMMISSIONER McNABB: I so move.

11 COMMISSIONER MACH: Second.

12 CHAIRMAN PATE: Thank you, Commissioner McNabb.  
13 Thank you.

14 Any further discussion?

15 (No response.)

16 CHAIRMAN PATE: Hearing none, all those in  
17 favor please signify by saying aye.

18 (A chorus of ayes.)

19 CHAIRMAN PATE: Any opposed?

20 (No response.)

21 CHAIRMAN PATE: All right. The motion carries.

22 Now moving on to the greyhound race dates,  
23 Chief Steward Ricky Walker will present the request  
24 submitted by Valley Race Park.

25 MR. WALKER: Commissioners, on pages 116

1 through 123, Valley Race Park has requested five greyhound  
2 race dates to be run August 23 through August 27, 2023.  
3 There is no letter of support from the Texas Greyhound  
4 Association. These dates would be in lieu of the 2021  
5 dates already granted by the Commission.

6 Are there any questions?

7 CHAIRMAN PATE: Robert, is anybody signed up to  
8 speak with respect to this matter?

9 MR. ELROD: No, sir.

10 CHAIRMAN PATE: Commissioners, do you have any  
11 questions?

12 COMMISSIONER McNABB: Just a question. If the  
13 association hasn't filed a letter of support, is there  
14 going to be -- are there going to be animals sufficient  
15 for those race dates to be executed? Is the industry  
16 going to support them?

17 CHAIRMAN PATE: Ricky, do you know?

18 MR. WALKER: I don't know, and I don't think  
19 there's anybody from the industry here. I'm not sure.

20 COMMISSIONER McNABB: I have no problem in  
21 approving the dates, but it's just a little concerning  
22 that there's not support from the industry here. But I  
23 have no problem approving the dates, if that's what the  
24 group wants to do.

25 CHAIRMAN PATE: All right. If there is no

1 further discussion, the chair would entertain a motion to  
2 approve the race dates submitted by Valley Race Park.

3 COMMISSIONER MACH: I make that motion.

4 CHAIRMAN PATE: Motion made by Commissioner  
5 Mach. Seconded by?

6 COMMISSIONER McNABB: I'll second.

7 CHAIRMAN PATE: Commissioner McNabb, thank you.  
8 Any further discussion?

9 (No response.)

10 CHAIRMAN PATE: Hearing none, all those in  
11 favor please signify by saying aye.

12 (A chorus of ayes.)

13 CHAIRMAN PATE: Are there any opposed?

14 (No response.)

15 CHAIRMAN PATE: Hearing none, the motion  
16 carries.

17 All right. The next item is agenda item VIII.  
18 Employment matters, discussion and possible action  
19 regarding the hiring of an executive director and general  
20 counsel.

21 Robert, has anybody signed up to speak on this  
22 matter?

23 Devon, did we have somebody here to speak with  
24 the commissioners on this?

25 MS. BIJANSKY: We have Drew Harris from the

1 Office of the Attorney General. He is expecting your call  
2 to go into executive session to discuss any -- to be there  
3 for your discussion then. He's not, I don't believe, on  
4 this main meeting.

5 CHAIRMAN PATE: All right. Robert, has anybody  
6 signed up to speak on this matter in this open session?

7 MR. ELROD: No, sir.

8 CHAIRMAN PATE: All right.

9 Well, as you know, Chuck announced his  
10 retirement and we will be posting for not only his  
11 position but for that of general counsel also. So we do  
12 have some things to discuss briefly, so I think it's  
13 appropriate for us now to go into executive session.

14 I'm not sure how this works. I'm going to ask  
15 the computer guy here in the office to get me into it. I  
16 believe there's a window open in GoToMeeting and if y'all  
17 would join me there we'll have that discussion at that  
18 time and then report back to this meeting shortly.

19 MR. ELROD: Chairman Pate --

20 MS. BIJANSKY: Mr. Chairman -- I'm sorry?

21 CHAIRMAN PATE: Go ahead.

22 MS. BIJANSKY: You should have some language  
23 there in front of you that it's important to read into the  
24 record regarding going into executive session citing a  
25 statute, that sort of thing. Do you see that?



1 CHAIRMAN PATE: Yes, I do. Thank you.

2 The Commission will now enter executive session  
3 under Government Code Section 551.071(1) to seek the  
4 advice of its attorney regarding pending or contemplated  
5 litigation or regarding a settlement offer.

6 MS. BIJANSKY: I think you're looking at the  
7 agenda language itself. You should have something above  
8 that in red.

9 CHAIRMAN PATE: This is my first time, I'm  
10 learning.

11 Under Texas Government Code Section  
12 551.074(a)(1), the Commission will now enter executive  
13 session to deliberate the appointment, employment,  
14 evaluation, reassignment, duties, discipline, or dismissal  
15 of a public officer or employee.

16 The time is now 11:42.

17 MS. BIJANSKY: And under Section 551.071(2), do  
18 you see that?

19 CHAIRMAN PATE: Yes, I'm sorry. It's not all  
20 put together the same way, but in any event, the  
21 Commission will enter executive session also under  
22 Government Code Section 551.071(2) to seek the advice of  
23 its attorney as privileged communications under the Texas  
24 Disciplinary Rule of Professional Conduct under the State  
25 Bar of Texas. This may include, but is not limited to,

1 legal advice regarding the Open Meetings Act, the  
2 Administrative Procedure Act, and the Texas Racing Act.

3 All right. The time is 11:42. We'll report  
4 back in a few minutes.

5 MR. ELROD: Commissioner Pate?

6 CHAIRMAN PATE: Yes.

7 MR. ELROD: I need to explain to everybody how  
8 this is going to work. We'll actually end this meeting,  
9 you can then go log in and the other commissioners log in  
10 to the executive session. Once that is over we'll restart  
11 this meeting. I can't run them both at once, I didn't  
12 realize that.

13 CHAIRMAN PATE: Thank you, Robert. I  
14 appreciate it.

15 MR. ELROD: I'm going to close this one now and  
16 we'll get the executive session started.

17 CHAIRMAN PATE: Thank you very much.

18 (Whereupon, at 11:42 a.m., the meeting was  
19 recessed, to reconvene this same day, Tuesday, July 27,  
20 2021, following conclusion of the executive session.)

21 CHAIRMAN PATE: It's 12:13, by my watch, that  
22 we would be reconvening after concluding its meeting in  
23 executive session, and the time is now 12:14. We have  
24 made no decisions while in executive session and take no  
25 action at this time.

1           Jean will be contacting all the commissioners  
2 regarding the scheduling of the next meeting.

3           I would ask that Vice Chair McNabb agree to  
4 join me, at least initially, as an employment committee so  
5 that we can discuss things and then report back to the  
6 other commissioners on some things that we might need to  
7 consider and review with me the postings that will be  
8 made, and we'll go from there.

9           Would you agree with that, Commissioner McNabb?

10           COMMISSIONER McNABB: Yes, sir.

11           CHAIRMAN PATE: All right. Thank you very  
12 much.

13           The time is now 12:14. With all business  
14 concluded, we are now adjourned. Thank you very much.

15           (Whereupon, at 12:14 p.m., the meeting was  
16 adjourned.)

C E R T I F I C A T E

MEETING OF: Texas Racing Commission

LOCATION: via telephone and web link

DATE: July 27, 2021

I do hereby certify that the foregoing pages,  
numbers 1 through 60, inclusive, are the true, accurate,  
and complete transcript prepared from the verbal recording  
made by electronic recording by Nancy H. King before the  
Texas Racing Commission.

DATE: August 3, 2021

\_\_\_\_\_  
(Transcriber)

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